

FAS

UNITED STATES DISTRICT COURT

UNSEALED 8/11/2008 SOUTHERN DISTRICT OF CALIFORNIA

FILED

~~SEALED~~APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT

SOUTHERN DISTRICT OF CALIFORNIA

In the Matter of the Search of

BY VNK DEPUTY

The residence located at:

2470 Deauville Street
San Diego, California 92139

'08 MJ 2067

I Floyd Mohler being duly sworn depose and say:I am a(n) Special Agent, U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives and have reason to believe that on the person of or X on the property or premises known as:2470 Deauville Street
San Diego, California 92139

See Attachment "A" for a more detailed description of premises/property to be searched

in the Southern District of California, there is now concealed a certain person or property, namely (describe the person or property to be seized)

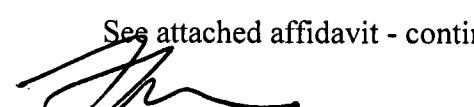
See Attachment "B" (Description of Items to Be Seized)

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)

instrumentalities, contraband, fruits and evidence of document fraud, false statements, and illegal use of an official insignia concerning violations of Title 18, United States Code, Section(s) 922(a)(3) and (6).

The facts to support a finding of Probable Cause are as follows:

See attached affidavit - continued on the attached sheet and made a part hereof.


Signature of Affiant

Sworn to before me, and subscribed in my presence

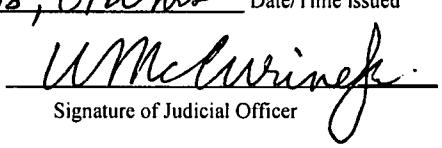
San Diego, California

at

7/8/08, 0920 hrs Date/Time issued**WILLIAM McCURINE, JR.**

United States Magistrate Judge

Name and Title of Judicial Officer

Signature of Judicial Officer 

RM

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ATTACHMENT A**DESCRIPTIONS OF THINGS TO BE SEARCHED****The Premises**

The Residence of Jesus Moore
Address: 2470 Deauville Street
including all outbuildings and appurtenances thereto
in the City of San Diego, California 92139
in the County of San Diego
in the Southern District of California

The Premises' Physical Description

Residence: Single family detached

Stories: two

Construction type: stucco

Color: white with gray trim

1-car attached garage

Outbuildings: unknown

Permanent Objects on or near Premises – 5' wooden fence surrounding the side and rear of residence.

The residence is located on the west side of Deauville Street, just north of Winchester Street. The numbers "2470" appear in black numbers on the front of the house, just to the left of the garage door. The residence has a 1-car garage attached to the main structure with a 1-car gated carport beside the garage. The roof is covered with gray tile shingles.

Vehicles

Vehicles registered to Jesus Moore and vehicles present at the time of the search that are utilized by Jesus Moore, specifically: a 1999 Toyota CA lic#4HCD445 (r/o Jesus Moore), a Landrover AZ lic#143-XLW (r/o Jennifer Jinesta Tucson, AZ), and a 1995 Chevy CA lic#5UKJ029 (r/o Louise Barnett)

Person(s)

Jesus Moore, a black male born 7/15/80, approximately 6' 3" in height, 225lbs in weight, with brown eyes and black hair.

**ATTACHMENT B****DESCRIPTION OF EVIDENCE TO BE SEARCHED FOR AND SEIZED****FIREARMS**

Any and all firearms located on the premises or within any of the vehicles/vessels on the premises including all areas to be searched. Other items pertaining to the possession of firearms, including gun cases, new gun boxes, ammunition, ammunition magazines, holsters, spare parts for firearms, firearms cleaning equipment, photographs of firearms or of persons in possession of firearms, and receipts for the purchase and/or repair of all these items.

RECORDS/DOCUMENTS

The following; books, records, documents or photographs, whether contained on paper in handwritten, typed, photocopied or printed form or stored on computer printouts, magnetic tape, cassette, disk, diskette, photo-optical devices, photographic film or any other medium.

Description of Particular Records/Documents:**Indicia of Control of the Premises**

Records that establish the persons who have control, possession, custody or dominion over the property and vehicles searched, and from which evidence is seized, such as: personal mail, checkbooks, personal identification, notes, other correspondence, utility bills, rent receipts, payment receipts, financial documents, pay and owe ledgers, passports, Immigration records, visa applications, Social Security records, Department of Motor Vehicle records, keys, photographs (developed or undeveloped), leases, mortgage bills, and vehicle registration information or ownership warranties, receipts for vehicle parts and repairs, telephone answering machine introductions, and fingerprints.

**AFFIDAVIT IN SUPPORT OF SEARCH WARRANT**

I, Floyd Mohler, being duly sworn, depose and state that:

1. I am a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), United States Department of Justice, and have been so employed since January 31, 2000. I am currently assigned to the San Diego, California Field Office. I am a graduate of the Federal Law Enforcement Training Center and the ATF National Academy; as a result of my training and experience as an ATF Agent, I am familiar with both federal and state criminal laws. My primary duties have been the enforcement of federal firearms and explosives laws. In that capacity, I have participated in hundreds of investigations involving the possession of firearms by prohibited persons, the possession of illegal firearms, and the illegal acquisition of firearms by both prohibited and non-prohibited persons. I have participated in investigations that involved interstate and international firearms trafficking. I have participated in the preparation and execution of dozens of search warrants involving various violations of federal and state laws.
2. This affidavit is in support of a search warrant for the residence of Jesus James MOORE located at 2470 Deauville Street, San Diego, CA 92139 for firearms, firearm records, papers and documents which evidence the illegal acquisition, sale or transfer of firearms by MOORE. There is probable cause to believe that these records and firearms are violations of Title 18 U.S.C. 922 (a) (6) - knowingly make a false or fictitious oral or written statement in connection with the acquisition of any firearm or ammunition and Title 18 U.S.C. 922 (a) (3) - importation of firearms without a license.
3. In September 2007, ATF SA Wakelin initiated an investigation into the firearms trafficking activities by Omar JINESTA. The investigation revealed that JINESTA had purchased 43 known firearms from various gun stores in Arizona, under the alias of Ruben GONZALEZ, between April 2004 and January 2008. During that time, seven of those firearms were recovered at crime scenes in San Diego County, and one in Tijuana, BC, Mexico.
4. On January 9, 2008, Omar JINESTA was arrested by ATF. During a post-arrest interview by SAs Wakelin and Beals, JINESTA admitted to selling 25 of the 43 firearms to an individual named Jesus LNU, aka: "Mo-Mo." JINESTA described "Mo-Mo" as a black, male, approximately 30 years old, 6' 200lbs., and possibly a Blood street gang member, residing in the Paradise Hills area. At the conclusion of the interview, JINESTA traveled with SAs Wakelin and Beals and showed them MOORE's residence, located at 6076 Reo Place, San Diego, California 92139. SA Beals observed the following license plates on different vehicles in the driveway: 4HCD445 (CA) - a four-door, dark-colored sedan, registered to Jesus MOORE; 5UKJ029 (CA) - a Chevy Astrovan, registered to Melody



BARNETT, formerly registered under JINESTA's alias, Ruben GONZALEZ, and 143XLW (AZ) - a dark-colored Land Rover, registered to JINESTA's wife.

5. During his interview on January 9, 2008, upon observing the above vehicles, JINESTA stated that two of the vehicles observed above were given to MOORE by JINESTA. He described the vehicles as his wife's old Landrover and a dark colored minivan. JINESTA identified these two vehicles as the Chevy Astrovan and Land Rover observed at the residence. In addition, JINESTA identified a photograph of MOORE as "Mo-Mo."
6. On April 14, 2008, SAs Wakelin and Mohler saw these same three vehicles at MOORE's residence. Also in April 2008, SA Wakelin observed MOORE arrive and then leave the residence in a rental vehicle. In June 2008, SA Wakelin observed MOORE exit the residence, located at 6076 Reo Place, San Diego, California, and driving away in a rental vehicle.
7. On April 18, 2008, SAs Wakelin and Mohler conducted a second interview of JINESTA. JINESTA admitted that he was a convicted felon who was deported to Mexico in March 2004. He also admitted that he was working for a drug trafficking organization (DTO) based out of Tijuana, BC, Mexico. After being deported, JINESTA said the Mexican DTO provided him with the identity of Ruben GONZALEZ, a United States Citizen and member of the same DTO, because they wanted him to continue smuggling (narcotics) into the U.S.
8. On April 14, 2008, JINESTA stated that when he purchased the guns in Arizona and subsequently transported them to California, they were locked in gun cases, stored in the trunk of his vehicle. JINESTA said that his partner in marijuana and firearms trafficking was Martin CUNNINGHAM, DOB: 12/13/82, his brother-in-law. JINESTA identified his two primary customers as the Mexican DTO he worked for and MOORE. JINESTA identified 25 firearms that he sold to MOORE since 2004. JINESTA said he last sold MOORE 3 Smith and Wesson 9mm handguns as recently as November or December 2007. ATF Multiple Sales records obtained earlier by SA Wakelin, revealed that JINESTA, using the alias identification of "GONZALEZ," purchased 4 Smith and Wesson 9mm handguns from Sprague's Gun Store in Yuma, AZ, in September 2007.
9. On April 14, 2004, JINESTA stated that he was introduced to MOORE approximately four years ago. According to JINESTA, MOORE is a distributor of marijuana that is supplied by a Mexican DTO and other local sources. JINESTA stated that MOORE asked him to supply him with firearms. JINESTA stated that whenever he needed money he sold firearms to MOORE. MOORE told JINESTA that he trades the guns for high-grade marijuana from a local source. JINESTA said that he and CUNNINGHAM would usually deliver the firearms to MOORE at his residence at 6076 Reo Place. On approximately two occasions, JINESTA and CUNNINGHAM delivered firearms to MOORE at the Plaza Bonita Mall in Chula Vista, CA. JINESTA stated that MOORE uses multiple telephones and rental vehicles to conduct his firearms and narcotics

trafficking operations. When questioned further regarding the two vehicles given to MOORE by JINESTA, JINESTA stated that he recently traded two of his vehicles to MOORE for approximately 41 pounds of marijuana

10. In April 2008, SA Wakelin initiated a query of MOORE in local law enforcement databases. The query revealed that on numerous occasions MOORE has given law enforcement 6076 Reo Place as his residence. This same query showed MOORE to have the following arrests: 1994 - Robbery, False Imprisonment, Spousal Abuse, and Witness Intimidation. This arrest resulted in a misdemeanor conviction for Witness Intimidation; 2001 - Attempted Robbery - No disposition; 2004 - Possession of Dangerous Weapon, and Carrying a Loaded Firearm in Public. SA Wakelin obtained information regarding the firearm possessed by MOORE. The firearm, a .380 Hi-Point Pistol, was purchased at Sprague's Gun Store in Yuma, AZ, by an individual named Alfonzo PORCHAS, a known firearms and marijuana trafficker who resides both in San Diego, CA and in Arizona.
11. On January 7, 2008, JINESTA's associate, Martin CUNNINGHAM was arrested by ATF agents while in route back to San Diego, CA after he and JINESTA had purchased 5 handguns at a Yuma, AZ gun show, despite both individuals being convicted felons as well as residents of California, in violation of federal law.
12. On May 13, 2008, SAs Wakelin and Beals conducted a proffer of Martin CUNNINGHAM regarding his firearms trafficking activities and his relationship to Omar JINESTA. CUNNINGHAM stated he is married to JINESTA's sister. CUNNINGHAM knows JINESTA to smuggle and sell marijuana and to purchase firearms in Arizona under the name Ruben GONZALEZ. CUNNINGHAM said the JINESTA would sell the firearms in San Diego, CA. CUNNINGHAM stated that JINESTA knows an individual named "Mo-Mo" to whom JINESTA sells firearms. CUNNINGHAM admitted to accompanying JINESTA on a couple occasions to deliver handguns to "Mo-Mo" at the Plaza Bonita Mall parking lot. CUNNINGHAM remembers that the handguns were delivered inside handgun boxes. CUNNINGHAM described "Mo-Mo" as a black male, approximately 30 years old, 6' tall, 200 lbs. CUNNINGHAM said that JINESTA told him that "Mo-Mo" was a marijuana trafficker.
13. On June 20, 2008, SA Wakelin drove by 6076 Reo Place, and discovered that the residence was for rent. SA Wakelin was told by the property manager at 6076 Reo Place that the previous tenants had vacated the week prior. Property management identified Lejonette Moore as having been that last tenant at 6076 Reo Place, and stated that Moore's father had secured the lease for her under his name, but never lived there. SA Wakelin also saw discarded mail addressed to Elijah Moore at 6076 Reo Place. The mail was from the Robert E. Lee School. SA Wakelin then conducted queries of law enforcement databases. SA Wakelin's queries revealed that Lejonette Moore currently utilizes telephone number 619-434-9271. Moore also used this number while living at 6076 Reo Place. This phone number is now associated with Moore at 2470 Deauville Street, San Diego,



CA 92139 (approximately 1 mile from 6076 Reo Place). Moore is identified as Lejonette Chauntrice Moore, formerly Lejonette Chauntrice Wilson, DOB: 7/13/83. According to computer records, it appears Moore changed her last name from Wilson within the last year.

14. On June 23, 2008, SA's Wakelin and Mohler conducted surveillance at 2470 Deauville Street. Agents observed the aforementioned black Chevy Astrovan, CA license# 5UKJ029 parked on the curb adjacent to 2470. Later, agents saw the garage door at 2470 open. Jesus MOORE then walked out of the garage and into the driveway. Then MOORE backed his vehicle, the aforementioned four-door, blue Toyota Corolla sedan, CA license#4HCD445, out of the one-car garage. Also on this date, SA Wakelin saw a young boy (approx. 9 years old) going in and out of 2470 Deauville St. SA Wakelin recognized the boy as the same child he saw outside 6076 Reo Place on prior occasions. SA Wakelin then spoke with the Robert E. Lee School Police and was told that Elijah Moore attended elementary school there and that their records reflect that Jesus James Moore is Elijah's father.

CONCLUSIONS

11. Based on my training and experience, consultation with other agents from ATF, and all of the facts and opinions set forth in this affidavit, I know:

- a) It is common for individuals who illegally acquire and possess firearms to keep firearms and documents related to the acquisition and disposition of firearms at their residence, businesses, and in their vehicles for an indefinite period of time;
- b) It is common for individuals who possess firearms (whether lawfully or unlawfully) to possess items relating to those firearms, which includes ammunition, magazines, holsters, gun boxes, spare parts, cleaning equipment, periodicals, photographs of firearms and receipts for the purchase and repair of those items in their residences, businesses, and vehicles;
- c) It is common for individuals involved in the illegal acquisition of firearms to store those items at places other than their residences, such as their place of business, their vehicles, storage lockers, and sheds. However, they often maintain receipts or other documentation related to those storage locations in their residences, businesses, and vehicles.
- d) It is common for persons involved in the illegal acquisition and/or trafficking of firearms to obtain a drivers license in a state known to have "less restrictive" firearms laws regarding multiple firearms purchases. These states are known to the ATF law enforcement community as "source states" such as Arizona, Nevada, and Texas. Typically these individuals obtain a driver license from the "source state" by using a fictitious or false address on the application and represent themselves as residents of that state. The driver

license is then used to purchase numerous firearms in that state. These firearms are then often brought back to the purchaser's true state of residency to be placed into their own personal inventory or illegally sold to other individuals. In addition, individuals involved in this type of activity often are also involved in possession and/or trafficking of controlled substances. They often trade firearms for controlled substances to be consumed for personal use or sold.

- e) It is common for persons involved in the illegal acquisition and trafficking of firearms to be paid by associates with cash, drugs, and/or other firearms. These individuals often keep those firearms for themselves for many years.
- f) It is common for individuals involved in the illegal acquisition and trafficking of firearms to purchase firearms of duplicate make, model, and caliber
- g) Consequently, based on my training, experience, and the above-mentioned facts, I believe there is probable cause to believe MOORE is still in possession of some of the firearms he illegally purchased from JINESTA, and/or documents related to those purchases.
- h) It is common for individuals involved in criminal activity to seek to obtain firearms illegally to ensure anonymity with regard to the firearm in the event of its recovery by law enforcement.
- i) It is common for individuals who are involved in the trafficking of controlled substances, to obtain firearms illegally in order to protect themselves and their drug trade and to keep them in their homes, vehicles and on their persons.
- j) Additionally, based upon prior searches of premises used by individuals involved in the illegal acquisition, possession, and trafficking of firearms, I have probable cause to believe that I will find articles of personal property and documents evidencing the identity of persons occupying, possessing, residing in, owning, frequenting, or controlling the premises. I also know that persons who possess firearms (whether lawfully or unlawfully) sometimes keep them for their personal use. Furthermore, individuals involved in the illegal acquisition and possession of firearms, both prohibited and non-prohibited, whether registered or unregistered, do so in large part because they do not want to be identified by law enforcement. Therefore, these individuals go through surreptitious means to acquire, maintain and possess such firearms without complying with state and federal laws.
- k) Furthermore, based on the above information, I believe that MOORE now lives at 2470 Deauville Street, and not at 6076 Reo Place. I base this on the facts that 6076 was vacant on June 20, 2008, and that on June 23, 2008, I saw MOORE coming out of the garage with his vehicle. It is commonplace for garage space for vehicles to be reserved for those vehicles owned by occupants of a residence. This is especially true in cases such as this where

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the garage only holds one vehicle. In addition, SA Wakelin saw MOORE's son going in and out of 2470 Deauville St. on June 23, 2008.

1) Therefore, based on my training, experience, and the above facts, which I believe to be true, I have probable cause to believe that the above described property or a portion thereof will be at the described premises when the warrant is served and that such items would constitute evidence of the illegal acquisition of firearms, and the illegal interstate importation of said items. With the above information, I formally request the issuance of a search warrant for the aforementioned premises.

I declare under penalty and perjury that the foregoing is true and correct to the best of my knowledge.



Floyd Mohler
Special Agent,
Bureau of Alcohol, Tobacco, Firearms and Explosives

Sworn to before me and subscribed in my presence, in San Diego, California, on June ^{July} 8, 2008.


WILLIAM McCURINE, Jr.

U.S. Magistrate Judge